



Attorney's Docket No.: 04644-068001

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Gary A. Freeman et al.
Serial No. : 08/962,271
Filed : October 31, 1997
Title : ELECTRODE PACKAGE

Art Unit : 3728
Examiner : J. Foster

Commissioner for Patents
Washington, D.C. 20231

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RESPONSE

This is responsive to the office action mailed on July 30, 2001.

The office action has greatly narrowed the issues. Earlier rejections over the Gilman and Engel prior art have been withdrawn. Only two grounds of rejection remain.

The examiner has rejected the claims under 35 U.S.C. 251 as based on a defective declaration, in view of applicant not having yet filed a supplemental declaration addressing the amendments made during prosecution after submission of the original declaration. Applicants will file the required supplemental declaration (in the form suggested by the examiner) after there is an indication that the claims are allowable.

The examiner has rejected independent claim 23 (and associated dependent claims 26, 27, and 29-48) under 35 USC 251 as being impermissible recapture of subject matter deliberately surrendered during prosecution of the original patent. The recapture rejection is based on claim 23 not containing limitations to a releasable seal, a limitation that the examiner asserts was added during original prosecution to obtain allowance over the prior art.

Applicants have steadfastly maintained throughout prosecution of this application that claim 23 is directed to an overlooked aspect of the original application, namely, the concept illustrated in Fig. 5 of placing a connector at the periphery of the compartment containing the electrode; with one end of the connector exposed to the interior of the compartment and the other

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